REMARKS

Claims 1-2, 4-9, 11-16, and 18-40 are pending upon entry of this amendment. Claim 10 has been cancelled. Applicants have amended the claims to limit the compositions to chloroacetamides have structurally similar common cores. Specifically, the acetamides are now limited to those selected from acetochlor, butachlor, dimethachlor, metazachlor, metolachlor, propachlor, propisochlor, and S-metolachlor. The chloro-acetamides are all alkyl-substitued and phenyl substituted chloracetamindes with varying alkyl chain lengths. Applicants have also added the limitations of claim 10 into claim 1.

Applicants thank the Examiner for the courtesy of the personal interview granted to the undersigned on September 6, 2007. During the interview, the undersigned and the Examiner discussed the evidence presented in the specification and the potential for limiting the claims to structurally similar acetamides better represented by such evidence. Applicants have made such an amendment to the claims. As noted above, all of the acetamides are chloroacetamides having the chloracetamide functional group substituted only by phenyl (and alkyl-substituted phenyl) and alkyl (including alkoxy-substituted alkyl). The only differences in the claimed structures from the specific acetamide evidenced in the specification is the alkyl chain length. Accordingly, Applicants respectfully submit that the data provided in the specification is representative of the class of acetamides claimed herein.

The Examiner rejected claims 1-2, 4-16, and 18-40 under 35 USC 103 as being unpatentable over the combined teachings of Penner (US6235682) and Feucht (US6365550). The Examiner maintained that Penner teaches compositions comprising a herbicide such as an acetanilide or acetamide herbicide and an oil-based adjuvant such as a free fatty acid. The compositions contain an organosilicon containing adjuvant for the purpose of reducing the foliar retention of the composition so that it does not adhere to the desirable crop plants but controls the weeds beneath. Feucht teaches herbicidal compositions comprising flufenacet in combination with glyphosate or glufosinate in combination with conventional adjuvants including organic solvents and oil-based adjuvants such as xylene, toluene, or alkylnaphthalenes, aliphatic hydrocarbons such as cyclohexane or paraffins, mineral oil fractions, etc. According to the Examiner, it would have been prima facie obvious to use the customary oil based adjuvants of Feucht with the active agents and fatty acid components of Penner to obtain the beneficial characteristics of the Penner compositions. Applicants respectfully traverse.

The Penner invention centers on the repellent properties of a composition so that retention on the foliage is reduced. The present invention, on the other hand, is used primarily for soil-applied treatments. Another difference between the Penner compositions and the claimed

invention relates to the use of specific lipophilic additives used in the present invention, i.e., lipophilic additive having at least one member selected from C13 – C20 fatty acids, C13 – C20 fatty alcohols and hydrocarbon fluids containing greater than 50 wt% paraffins. The Penner reference, while noting that free fatty acids may be used in the composition, does not specify the type of fatty acids, as is specifically done in the present claims, nor does it demonstrate that the lipophilic additive is necessary to impart a synergistic herbicidal activity, as is also claimed in the present invention. (Note the data showing synergistic activity found at page 21 of the specification) For these reasons, Applicants respectfully submit that the Penner reference does not disclose a similar composition as the claimed invention.

The Feucht reference likewise fails to render the present claims obvious. The reference discloses the synergistic activity between two very specific herbicides, neither of which are claimed herein, while the present application claims synergy imparted by a very specific type of lipophilic additive. While the reference discloses the use of solvents embraced by the present claims, it is not instructive of the amounts of these solvents necessary to enhance the activity of the herbicidal activity. Just the opposite is true, in fact, since the Feucht reference is directed to the synergy imparted by the herbicide combination itself, without regard to the solvents used.

Taken together, the Penner reference and the Feucht reference do not render the present claims obvious. There is absolutely no compelling reason for one of ordinary skill in the art to combine the two references other than by the hindsight suggestion provided by the present claims. Even if there was a suggestion to combine, neither reference provides appropriate guidance to make the synergistically active compositions of the present invention. Neither reference identifies the specific selection of lipophilic additives as potential synergists. Additionally, the unexpected synergy shown in the specification herein refutes any potential prima facie case of obviousness raised by the art. Accordingly, Applicants respectfully submit that the rejection should be withdrawn.

In light of the amendments and remarks provided herein, Applicants respectfully request entry of the present amendment and allowance of all of the pending claims.

Respectfully submitted,

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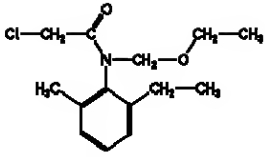
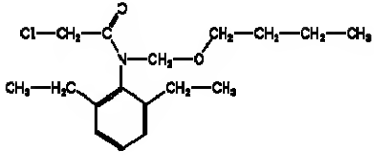
Supplemental Sheet



acetachlor



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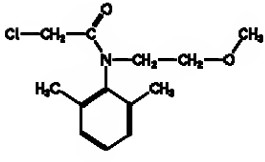

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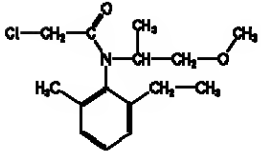
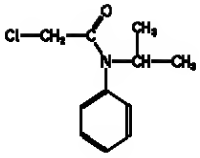
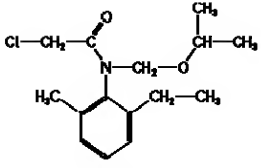


metolachlor



propachlor



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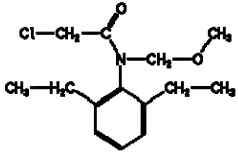
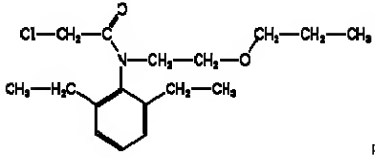


alachlor



pretilachlor